

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

NATHANIEL ISH,

Petitioner,

v.

JEFFREY A UTTECHT.

Respondent.

CASE NO. C12-6084 RBL-JRC

ORDER DENYING PETITIONER'S
MOTION FOR APPOINTMENT OF
COUNSEL

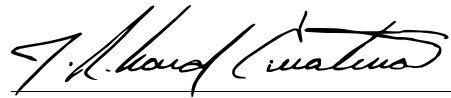
The District Court has referred this petition for a writ of habeas corpus to United States Magistrate Judge J. Richard Creatura. The District Court's authority for the referral is 28 U.S.C. § 636(b)(1)(A) and (B), and local Magistrate Judge Rules MJR3 and MJR4.

Petitioner asks that the Court appoint counsel to represent him in this matter (ECF No. 7). There is no right to have counsel appointed in cases brought pursuant to 28 U.S.C. § 2254 unless an evidentiary hearing is required. This is because the action is civil, not criminal, in nature. *Brown v. Vasquez*, 952 F.2d 1164, 1168 (9th Cir. 1991) (citing *McCleskey v. Zant*, 499 U.S. 467, 495 (1991)); see *Ortiz v. Stewart*, 149 F.3d 923, 939 (9th Cir. 1998) ("There is simply no constitutional right to an attorney in a state post-conviction proceeding."); see also *Terrovona v.*

1 *Kincheloe*, 852 F.2d 424, 429 (9th Cir. 1988); and Rule 8(c) of the Rules Governing Section
2 2254 Cases in the United States District Courts.

3 The Court has not ordered an evidentiary hearing in this case. The Court has directed that
4 respondent file an answer or otherwise respond to the petition (ECF No. 9). The Court denies
5 petitioner's motion for appointment of counsel.

6 Dated this 14th day of February, 2013.

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9 J. Richard Creatura
10 United States Magistrate Judge
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